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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/777,597 | 02/11/2004 | Paul Y. Kim | SF-4 | 4943 |

25917 7590 11/15/2007

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| EXAMINER | |
|---|---|
| CARIASO, ALAN B | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2885 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 11/15/2007 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

5/4

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/777,597 | KIM, PAUL Y. | |
| | Examiner | Art Unit | |
| | Alan Cariaso | 2885 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *28 September 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-3,5-7 and 10-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *21* is/are allowed.

6)☒ Claim(s) *1-3,5,6,10-14,18-20 and 22* is/are rejected.

7)☒ Claim(s) *7 and 15-17* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Response to Amendment*

1. Receipt of applicant's response after final (presumably under 37 CFR 1.116) filed September 28, 2007 is acknowledged. Proposed amendment to claims are entered, and therefore, updated pending claims are 1-3, 5-7 are 10-22 pending. Claims 1

2. The indicated allowability of amended claim 1 (former claim 1 incorporating limitations of former claim 4) and 22 (former claim 1 incorporating limitations of former claim 9) is withdrawn in view of the newly discovered reference(s) to NILSSEN (US 5,214,353). Rejections based on the newly cited reference(s) follow.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 6, 12-14, 18 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by NILSSEN (US 5,214,353).

5. In regards to claim 12, NILSSEN discloses a flashlight (FL, fig.3) comprising: a single lamp (LB); a power storage element (B,BB,BC1,BC2); a single switch ("a three-position switch means SM", col.8, line 37, figs.7-9) having an electrical input contact (STa) and a plurality of at least three electrical output contacts (STb,STc, unlabeled "off"-position contact); the switch (SM) being operable to be incremented (col.8, lines

36-40) through a sequence of states (col.9, lines 15-68, Off-position, regular On-position, Boost-position), each increment occurring capably in response to a momentary application and release of pressure. The functional phrase "operable to be incremented ... each increment occurring in response to a momentary application and release of pressure" is further supported by flashlight embodiment in fig.3 having a slide lever switch (SL) that includes a detented OFF-position, a detented On-position and a user-held spring-loaded MAX-position (col.5, lines 29-44) which would allow momentary application and release of pressure to obtain continuous OFF state, continuous nominal ON operation and momentary maximized light output state. For indefinite or definite continuity in states between, OFF, nominal-ON and BOOST, a three-position switch (col.8, lines 36-40) is disclosed in the embodiments of figs.5, 7, 8 & 9. When the switch set at the BOOST-position, the bulb filament is expected to yield about four times its normal light output (col.9, lines 47-52) commensurate with the shortest acceptable operating life (col.10, lines 1-4). Embodiments of figs.7-9, are disclosed with ways to optimize the shorten life span of the light bulb (col.10, lines 43-68) in BOOST-mode. Embodiment of fig.5, is disclosed "to attain a fixed-level BOOST to switch-in an auxiliary cell" (col.6, line 63 to col.7, line 5), where the MAX-BOOST position is set for continuous operation of about 15 minutes (col.7, lines 18-24) (a duration worthy of a continuous state) versus the spring-loaded Max-position of embodiment of fig.3 (col.5, lines 37-44), where the MAX-position state is instantaneous. Hence, any of the flashlight-switch embodiments of NILSSEN are capable of operating the flashlight in the states of OFF, nominal-ON and Maximized or Boosted light output in any of the following manner:

continuously set by the maximized bulb filament life span, instantaneously set by user's actuation, or by definite time set by an IC; each of the states (Off, nominal-On, Max/Boost) having an electrical connection made between the input contact (STa) and a respective one of the output contacts (sole dot-contact with no lines/wires, STc, and STb, respectively); and a different amount of power (nil power, nominal power, boost power) being delivered to the lamp in each of the switch states (Off, nominal-On, Max/Boost).

6. In regards to claim 13, 14, 18 and 22, NILSSEN discloses the switch (SM) that includes an off state (figs.7-9 show a sole dot-contact with no connected lines/wires, figs.1,3 & 5 are disclosed with "Off" state or positions), in addition to at least two different brightness states (col.1, lines 38-45); wherein the switch (SM) is the only switch on the flashlight (as viewed in figs.7 & 8); wherein the switch (SM) is connected to a network (fig.7) of resistors being resistance means (RM) and batteries (BC1,BC2,ABC) having internal resistance (col.9, lines 60-61), and operates to include a selected one of the resistors in a circuit (fig.7) including the lamp (LB) and the power source (BB).

7. In regards to claims 1 and 2, NILSSEN discloses the flashlight as similarly claimed in claim 12 described in the rejection of claim 12 in paragraph 5 above. NILSSEN further discloses a controller (IC, fig.5) operable to deliver different selected power levels to the lamp (LB'), and having a plurality of inputs (ICT1,ICT2), the switch (TPS) having a plurality of outputs (ST2",ST3") connected via a corresponding plurality of conductive connections to the respective controller inputs (ICT1,ICT2), each

connection corresponding to an operational state, such that current flows through a selected output when the flashlight is in the corresponding operational state (col.6, lines 37-45).

8. In regards to claims 3, 5 and 6, wherein the flashlight (FL) includes an elongated body (fig.3) and wherein the switch (SL,SS) is located at an intermediate portion of the body away from the ends of the body (fig.3); wherein the switch (TPS, fig.5) is operable to make a connection between an input (ICT1,ICT2) from the controller (IC) and a selected one of the outputs (ST2",ST3"); wherein the power storage element (B', fig.5) has opposed electrodes (B+', B-') each connected (via ICT1 via closed ST1"-ST3" and J2" or ICT3) to the controller (IC), and wherein the lamp (LB') has opposed electrodes (J1",J2") each connected to the controller (IC) via ICT2 and ICT3.

### *Claim Rejections - 35 USC § 103*

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 10, 11, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over NILSSEN (US 5,214,353) in view of RACHWAL (US 6,388,390 B2).

11. NILSSEN discloses substantially the claimed invention, except: the lamp being an LED (claims 10 and 19); a reflector having an optical axis on which the single lamp is positioned (claims 11 and 20).

12. RACHWAL teaches a light emitting diode (14) as an optional equivalent to an incandescent light source for the purpose of emitting white light of an intensity which will vary as a function of the magnitude of electrical current conducted through either light source (col.3, lines 34-55). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flashlight of NILSSEN to include the equivalent type of LED light source as taught by RACHWAL in order to produce selectively low or high intensity white light, and further motivated by its generally longer operational life span especially in the high intensity state.

13. RACHWAL teaches a reflector (16) inherently with a centered optical axis on which the lamp (14) is positioned for the purpose of reflecting light emitted lateral and posterior of the lamp (14) into one forward direction along the optical axis through the lens (20) in the same direction as forward light emitted by the lamp (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the flashlight of NILSSEN to include the type of reflector and lamp position as taught by RACHWAL in order to efficiently direct most light emitted by the lamp to one general forward direction of illumination.

***Allowable Subject Matter***

14. Claim 21 is allowed.

15. Claims 7 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The following is a statement of reasons for the indication of allowable subject matter:

17. In regards to claims 7, 15 and 16, the prior art of record does not suggest a controller connected to each of the contacts of the switch (claims 15 and 16), nor all contacts of the switch connected directly to the controller such that the switch does not intervene between the lamp and the power source (claim 7). NILSSEN '353 discloses an integrated circuit (IC in fig.5) connected to two output switch contacts (ST2",ST3") via (ICT2,ICT1 in col.3, lines 15-29), but states that IC would eliminate a mechanical switch (TPS=three position switch) in providing both ON/OFF function as well as for continuous-range DIMMING/BOOSTING function (col.7, line 62 to col.8, line12). The IM (fig.9) or inverter means may broadly be considered a controller, which is connected to the lamp, to the power storage element, and to most contacts of the switch (at most two), except each of the at least three electrical output contacts of the switch, namely the contact that represents the "Off" position.

18. In regards to claims 17 and 21, the prior art of record does not suggest the switch including an axially-movable element and an internal rotatable element.

## *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cariaso whose telephone number is (571) 272-2366. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Lee can be reached on (571) 272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Alan Cariaso
Primary Examiner
Art Unit 2885

AC
November 12, 2007